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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,401	05/31/2001	Scott C. Johnson	SURG:157	2094

7590 07/22/2004

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EXAMINER

SHINGLES, KRISTIE D

ART UNIT PAPER NUMBER

2141

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/871,401	Applicant(s) JOHNSON ET AL.	
	Examiner Kristie Shingles	Art Unit 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-132 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-132 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05/31/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/15/02, 6/25/02</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claims 1-132 are pending.

Priority

1. Acknowledgment is made of applicant's claim for domestic priority under 35 U.S.C. 120. The certified copy has been filed in parent Application No. 09/797,413, filed 03/01/2001.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 02/15/2002 and 06/25/2002 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the Office. An initialed and dated copy of Applicant's IDS form 1449, is attached to the instant Office action.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 32, 64, 1060A, and 1060B. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended.

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The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double patenting

4. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims 1-132 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-132 of copending Applications No. 09/797,413 and 09/871,134. Claim quantity and quality is identical to that of the listed copending applications. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Specification

6. The disclosure is objected to because of the following informalities: missing patent application numbers of referenced applications on pg.16 lines 25-30, pg.23 line 24, pg.24 line 3, pg.46 line 15; and missing punctuation on pg.30 line 27.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 2-4, 10, 12-19, 22-26, 29-34, 36-45, 48-53, 56-61, 63-65, 67-71, 74-78, 81, 82, 84-87, 89-92, 94-99, 101, 103-106, 108-113 and 115-132 are rejected under 35 U.S.C. 102(e) as being anticipated by Allen, Jr. et al (U.S. 6,404,752).

a. Per claims 1 and 18 (differs only by statutory class), Allen, Jr. et al teach a network endpoint system, comprising:

- at least one system processor performing endpoint functionality processing (col.11 lines 13-25; system processor performs initialization and configuration services);
- a system interface connection configured to be coupled to a network (Fig.1A; system interface for coupling);
- at least one network processor, the network processor coupled to the system interface connection to receive data from the network (Fig.2, col.4 lines 40-53, and col.6 lines 23-63; the network processor is coupled to the system interface where it receives and routes data from the network); and
- an interconnection between the system processor and the network processor so that the network processor may analyze data provided from the network and process the data at least in part and then forward the data to the interconnection so that other processing may be performed on the data within the system (Abstract, col.6 lines 2-22, and col.13 lines 10-59; the network processor is interconnected

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to the system processor where the network processor performs data processing and routing also referred to as content delivery).

b. Per claims 33, 53, 15, 45, 49, 50 and 57 (differs only by statutory class), Allen, Jr.

et al teach a network endpoint system, comprising:

- a first processor engine, the first processor engine configured to receive data from a network (Fig.2, col.4 lines 40-53, and col.6 lines 23-63; the network processor is coupled to the system interface where it receives and routes data from the network);
- a second processor engine, the second processor engine performing at least some endpoint functionality, the first processor engine performing tasks different from the endpoint functionality tasks performed by the second processor engine (col.11 lines 13-25, col.7 lines 16-39 and col.23 lines 20-63; system processors, protocol processors, application processors and Datastore Coprocessor engine perform different tasks); and
- an interconnect coupling the first and second processor engines (col.13 lines 10-59; system processor and network processor are interconnected);
- wherein the network endpoint system is configure in at least one manner to provide accelerated performance (col.4 lines 44-52; use of network processor provides high and fast performance forwarding).

c. Per claim 71, 2, 4, 16, 17, 29, 38, 44, 59, 60, 70, 75, 77 and 82, Allen, Jr. et al

teach a method of providing a content delivery system through the use of a network connectable computing system, comprising:

- providing a plurality of separate processor engines, the processor engines being assigned separate tasks in an asymmetrical multi-processor configuration (col.5 line 66-col.6 line 27, col.7 lines 16-39, and col.21 line 58-col.23 line 66; plurality of separate processor engines assigned separate tasks);
- providing a storage processor engine, the storage processor engine being one of the plurality of separate processor engines (col.23 lines 46-63; Datastore Coprocessor functions as storage processor engine);
- providing a network interface connection to at least one of the processor engines to couple the content delivery system to a network (col.5 lines 14-25 and col.6

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lines 23-63; network processor provides content delivery and has a network interface connection to other processors);

- providing a storage interface connection to the storage processor engine to couple the storage processor engine to a content storage system (col.6 lines 23-63, col.13 lines 29-47, col.20 lines 15-24, col.21 line 16-col.22 line 47; network processor provides content delivery and has a network interface connection to storage processor engine and other processors); and
- accelerating content delivery through the network endpoint system (col.3 lines 1-5 and col.4 lines 44-52; use of network processor provides high and fast performance forwarding).

d. Per claims 87, 101, 89, 90, 96, 99, 103, 104, 110 and 113, Allen, Jr. et al teach a network connectable computing system, comprising:

- a first processor engine (Fig.2, col.4 lines 40-53, and col.6 lines 23-63; the network processor acts as first processor engine);
- a second processor engine, the second processor engine being assigned types of tasks different from the types of tasks assigned to the first processor engine (col.11 lines 13-25; system processor performs initialization and configuration services);
- a third processor engine, the third processor engine being assigned types of tasks that are different from the types of tasks assigned to the first and second processor engines (col.7 lines 16-39 and col.23 lines 20-63; protocol processors, application processors and Datastore Coprocessor engine perform different tasks); and
- a distributed interconnection coupled to the first, second and third processor engines, the tasks of the first, second and third processor engines being assigned such that the system operates in staged pipeline manner through the distributed interconnection (col.3 lines 1-5, col.20 lines 59-64, and col.24 lines 36-51; system includes 3-stage pipeline and bus-structured interconnects which allow for distributed interconnections).

e. Per claims 115, 22-26, 32, 34, 40-43, 51, 58, 61, 63, 65, 67, 76, 78, 84, 116-121, and 127, Allen, Jr. et al teach a network connectable content delivery system, comprising:

- a first processor engine (Fig.2, col.4 lines 40-53, and col.6 lines 23-63; the network processor acts as first processor engine);

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- a second processor engine, the second processor engine being assigned types of tasks different from the types of tasks assigned to the first processor engine (col.11 lines 13-25 and col.23 lines 20-45; system processor performs initialization and configuration services while application processors perform data handling);
- a storage processor engine, the storage processor engine being assigned types of tasks that are different from the types of tasks assigned to the first and second processor engines, the storage processor engine being configured to be coupled to a content storage system (col.6 lines 23-63, col.13 lines 29-47, col.20 lines 15-24, col.21 line 16-col.22 line 47, and col.23 lines 46-63; Datastore Coprocessor functions as storage processor engine, network processor provides content delivery and has a network interface connection to storage processor engine and other processors); and
- a distributed interconnection coupled to the first, second and third processor engines, the tasks of the first, second and third processor engines being assigned such that the system operates in staged pipeline manner through the distributed interconnection, wherein at least one of the first or second processor engines performs system management functions so as to off-load management functions from the other processor engines (col.2 lines 31-37, col.3 lines 1-5, col.4 lines 48-57, col.5 lines 1-13, col.5 lines 49-65, col.20 lines 59-64, and col.24 lines 36-51; system include 3-stage pipeline and bus-structured interconnects which allow for distributed interconnections, control point processor provides system management, management and network processor implementation also allows for load-balancing).

f. Per claim 3, Allen, Jr. et al teach a network endpoint system of claim 1, wherein the system processor comprises an application processor (col.21 line 58-col.22 line 47, col.23 lines 20-45; makes use of application processors).

g. Per claims 10, 12, 13, 31, 36, 37, 48, 56, 64, 74, 81, 94, 95, 108 and 109, Allen, Jr. et al teach the network endpoint system of claim 9, wherein the distributed interconnection comprises a switch fabric (col.2 lines 47-62, col.5 line 66-col.6 line 22; makes use of a switch fabric).

h. Per claims 14, 30, 124-126 and 130-132 Allen, Jr. et al teach the network endpoint system of claim 1, wherein the network processor filters data incoming to the network

endpoint system from the network (col.2 lines 47-67; performs data filtering functions via packet classification, management, forwarding, and modification).

i. Per claim 19, Allen, Jr. et al teach the method of claim 18, wherein the network processor analyzes headers of data packets transmitted to the network endpoint system from the network (col.2 lines 47-67; network processor functions to classify packets by their header information e.g. address or protocol).

j. Per claim 39, Allen, Jr. et al teach the network endpoint system of claim 38, wherein at least two of the first, second or third processor engines each comprises a plurality of processor modules (col.10 line 56-col.11 line 5; incorporates the use of multiple modules).

k. Per claim 52, Allen, Jr. et al teach the network endpoint system of claim 51, wherein the system is contained within a single chassis (col.5 lines 26-47; provides for implementation on any chassis which is inclusive of a single chassis).

l. Per claims 68 and 85, Allen, Jr. et al teach the method of claim 67, further comprising tracking system performance within the system management processor engine (col.11 lines 26-31; traffic management scheduler and control block function as tracking system).

m. Per claims 69 and 86, Allen, Jr. et al teach the method of claim 67, further comprising implementing system policies with the system management processor engine (implementing system policies; col.2 lines 47-58; performs policy management).

n. Per claims 91, 97, 98, 105, 106, 111 and 112, Allen, Jr. et al teach the system of claim 90, wherein at least one of the first, second or third processor engines comprises multiple processor modules operating in parallel (col.3 lines 1-14; provides for a parallel architecture).

o. Per claim 92, Allen, Jr. et al teach the system of claim 91, wherein the application processor engine comprises multiple processor modules operating in parallel and the storage processor engine comprises multiple processor modules operating in parallel (col.10 line 56-col.11 line 5 and col.28 line 56-col.29 line 6; incorporates the use of multiple modules and the Datastore Coprocessor).

p. Per claims 122, 123, 128 and 129, Allen, Jr. et al teach the system of claim 120, wherein the system management functions comprise quality of service and service level agreement functions (col.2 lines 31-46; QoS and authentication comprise service level agreements).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5-9, 11, 20, 21, 27, 28, 35, 46, 47, 54, 55, 62, 66, 72, 73, 79, 80, 83, 93, 100, 107 and 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen, Jr. et al in view of Bernabeu-Auban et al (U.S. 5,805,572).

q. Allen, Jr. et al teach from above the implementation a network content delivery system/method comprising the interconnection of multiple processors including: network

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processors, application processors, system processors, and storage processors, however, Allen, Jr. fails to teach the system operating in a peer-to-peer environment. Nonetheless, Barnabeu-Auban et al teach a network system of multiple processors connected in peer-to-peer connectivity, which includes packet filtering, and load balancing (col.1 lines 35-42 and col.2 lines 23-58).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to account for additional networking architectures including peer-to-peer configuration for the purpose of scalability and expansion over other networks. One skilled in the art would have been motivated to generate the claimed invention with a reasonable expectation of success.

11. Claims 88 and 102 are rejected under 35 U.S.C 103 (a) as being unpatentable over Allen, Jr. et al in view of Barnabeu-Auban et al and further in view of Applicant's Admitted Prior Art, hereafter referred to as, AAPA.

r. Allen, Jr. et al and Barnabeu-Auban et al teach network connected computing systems but fail to specifically disclose network endpoint systems. However, AAPA teaches existence of various network computing systems inclusive of network endpoint systems and network intermediate node systems (pg.2 lines 5-10).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to include network endpoint systems when disclosing the use of network computing systems for the purpose of implementation on various network systems relatively synonymous with the disclosed network connected computing systems. One skilled in

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the art would have been motivated to generate the claimed invention with a reasonable expectation of success.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Fletcher (U.S. 6,072,797) discloses methods, apparatus and computer program products for aggregated transmission groups in high-speed networks.

b. Broockman et al (U.S. 6,463,064) disclose a method and apparatus interconnection of local area networks with wide area networks.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 703-605-4244. The examiner can normally be reached on Monday-Friday 8:30-6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

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